

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

IN RE:

MATERIAL WITNESS WARRANT  
FOR MYTAVIOUS CARRIGAN

/

1:23-mw-40008

Judge: Ludington, Thomas L.

MJ: Morris, Patricia T.

Filed: 10-17-2023

**MEMORANDUM OF LAW IN SUPPORT OF MOTION  
FOR MATERIAL WITNESS ARREST WARRANT**

The Court has the authority under 18 U.S.C. § 3144 to detain an individual as a material witness in any criminal proceeding.

Title 18, United States Code, Section 3144 provides that:

If it appears from an affidavit filed by a party that the testimony of a person is material in a criminal proceeding, and if it is shown that it may become impracticable to secure the presence of the person by subpoena, a judicial officer may order the arrest of the person and treat the person in accordance with the provisions of section 3142. . . .

All that these provisions require is that it appears by Affidavit that:

1. The testimony of a person is material;
2. In any criminal proceeding; and
3. It may become impracticable to secure his presence by subpoena.

The Ninth Circuit has explained the requirements of obtaining a material witness arrest warrant as follows:

Before a material witness arrest warrant may issue, the judicial officer must have probable cause to believe (1) "that the testimony of a person is material" and (2) "that it may become impracticable to secure his

presence by subpoena." These requirements are reasonable, and if they are met, an arrest warrant may issue.

In the case of a grand jury proceeding, we think that a mere statement by a reasonable official, such as the United States Attorney, is sufficient to satisfy criterion (1). This is because of the special function of the grand jury; it has exceedingly broad powers of investigation, and its proceedings are secret.

\* \* \*

On the other hand, we think that, as to criterion (2), sufficient facts must be shown to give the judicial officer probable cause to believe that it may be impracticable to secure the presence of the witness by subpoena. Mere assertion will not do.

*Bacon v. United States*, 449 F.2d 933, 943 (9th Cir. 1971) (citations omitted). The material witness request in this case meets these requirements in that it states in affidavit form that:

1. Mytavious Carrigan is a material witness in investigation and trial of

Devin Pullins;

2. A subpoena will not be effective to ensure the attendance of before

the United States District Court in the Eastern District of Michigan.

It is the belief of the United States government officials that if a material witness arrest warrant is not issued at this time, his testimony will probably be lost to the trial in district court and will not be available in any subsequent criminal proceeding in the United States.

Therefore, pursuant to 18 U.S.C. § 3144, it is requested that Mytavious Carrigan be arrested forthwith and required to meet bail in an amount of not less than \$500, 000 cash and that if he should fail to post bail, he should remain in the custody of the United States Marshal in order

to ensure his appearance before the Court at trial on or about November 14, 2023.

Respectfully submitted,

Dated: October 17, 2023

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